HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 802 of 2001
(Old No. 1155 of 1988)

Mahendra Singh .... Appellant

Versus

Harminder Singh & others .... Respondent

Dated: 30.9.2004

Hon. Rajesh Tandon J.

The file has been transferred from Allahabad High Court. None appears for the parties.

Present appeal has been field against the judgment and award dated 15.9.1988, passed by the Motor Accident Claims Tribunal, Nainital.

Briefly stated that respondent has filed a claim petition under Section 110 of the Motor Vehicle Act, for grant of compensation on account of damages sustained to the tractor of the petitioner in a motor vehicle accident. The petitioner has alleged that on 3.2.1982 at about 10.00 AM while the tractor of the petitioner No. USR 7734 was standing on the road as the exile of the tractor had broken. The driver of the tractor along with another person was also there sitting on the tractor. A truck No. UTG 5723 which was being driven rashly and negligently hit the tractor due to which the tractor had got

damaged and driver of the tractor also sustained injuries who later on succumbed to the injuries. The petitioner has incurred a sum of Rs.25,000/- in the repair of the tractor and he claimed the said amount from the opposite parties as compensation..

The claim petition has been contested by the opposite parties. On the basis of pleadings of the parties the Claims Tribunal has framed as many as seven issues.

The claims tribunal on the basis of ocular testimony of eyewitness decreed the claim petition and has awarded a sum of Rs.25,000/- to the petitioner. The Claims Tribunal has also held that the truck was not insured, therefore, the opposite party owner of the truck was held liable to pay compensation to the petitioner. Feeling aggrieved against the order opposite party has preferred the present appeal.

The claims Tribunal on the ocular testimony of eye-witness of the accident has given categorical findings that the accident took place due to rash and negligent driving by the truck driver.

The petitioner has incurred a sum of Rs.25,000/- in the repair of the tractor. I find no infirmity or illegality in the judgment and award of the Claims Tribunal.

In view of the aforesaid fact, the appeal has no force and is hereby dismissed. No order as to costs.

(Rajesh Tandon J.)

30.9.2004

*Dhyani